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PAGE 01 STATE 137390

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TAGS: EFIN

SUBJECT: DISCUSSION OF EMINENT PERSONS REPORT AT OECD INVESTMENT EXPERTS MEETING

1. THE PRINCIPLE ITEM ON THE AGENDA OF THE OECD FIFTH AD HOC MEETING OF GOVERNMENT EXPERTS ON INVESTMENT ON JULY 8 AND 9 IS A DISCUSSION OF THE REPORT OF THE ECOSOC GROUP OF EMINENT PERSONS ON THE IMPACT OF MULTINATIONAL CORPORATIONS ON THE DEVELOPMENT PROCESS AND ON INTERNATIONAL LIMITED OFFICIAL USE LIMITED OFFICIAL USE

PAGE 02 STATE 137390

RELATIONS, WHICH WAS RELEASED JUNE 9. THIS REPORT WILL ALSO BE DISCUSSED AT THE 57TH SESSION OF ECOSOC (AGENDA ITEM 8) WHICH BEGINS IN GENEVA ON JULY 3. THIS CABLE PRESENTS THE PRELIMINARY POSITION OF THE U.S. WITH RESPECT

TO THIS REPORT AND OUR OBJECTIVES FOR THE OECD EXPERTS MEETING. IT REQUESTS ACTION POSTS TO OBTAIN THE VIEWS OF HOST GOVERNMENTS WITH RESPECT TO THE REPORT ITSELF AND ITS DISCUSSION IN OECD AND ECOSOC.

2. GENERAL U.S- EVALUATION OF REPORT - WE BELIEVE IT IS IMPORTANT TO OBTAIN A BETTER UNDERSTANDING OF THE IMPACT OF MULTINATIONAL CORPORATIONS, OR MORE GENERALLY, TRANSNATIONAL INVESTMENT, ON THE DEVELOPMENT PROCESS AND INTERNATIONAL RELATIONS AND THUS WE HAVE SUPPORTED THE EXAMINATION OF THESE SUBJECTS IN THE UN AND OTHER FORA. WE ARE, IN GENERAL DISAPPOINTED THAT THE REPORT OF THE EMINENT PERSONS HAS NOT MADE AS SIGNIFICANT A CONTRIBUTION TO THAT UNDERSTANDING AS IT COULD HAVE, GIVEN THE EFFORTS OF THE TALENTED INDIVIDUALS WHO PARTICIPATED IN THIS STUDY. WHILE THE UNITED STATES HAS YET TO DEVELOP FULLY ITS POSITIONS ON THE MANY SPECIFIC ASPECTS OF THE REPORT, IT IS CLEAR WE WILL HAVE A NUMBER OF RESERVATIONS REGARDING SUBSTANCE AS WELL AS THE TONE OF THE REPORT.

3. SPECIFICALLY, WE BELIEVE THE REPORT STRIKES AN UNFORTUNATELY NEGATIVE TONE AND IS NOT BALANCED. THE EMPHASIS IS LARGELY ON RESTRICTING MNC'S RATHER THAN ON CONSTRUCTIVE MEASURES FOR ENSURING THAT CAPITAL AND TECHNOLOGY ARE AS FREE AS POSSIBLE TO FLOW INTERNATIONALLY SO THEY CAN FIND THEIR MOST PRODUCTIVE USES.

4. THE REPORT FREQUENTLY MAKES LITTLE EFFORT TO DISTINGUISH BETWEEN FACTS, ASSUMPTIONS, AND ANALYSIS. THE REPORT SETS FORTH CONCERNS THAT CERTAIN PRACTICES AND CONDITIONS MAY EXIST WITHOUT DOCUMENTING THEM ADEQUATELY OR SHOWING CLEARLY THAT THEY, IN FACT, CONSTITUTE SIGNIFICANT PROBLEMS. THIS WEAKNESS IS MADE MORE SERIOUS BY A TENDENCY IN THE REPORT TO SKIP FROM THE STATEMENT OF A PARTICULAR FEAR BACKED BY LITTLE OR NO FACTUAL ANALYSIS TO RECOMMENDATIONS TO GOVERNMENTS.

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PAGE 03 STATE 137390

5. THE REPORT EXHIBITS A STRONG BIAS IN FAVOR OF GOVERNMENTAL AS OPPOSED TO PRIVATE DECISION MAKING. MOREOVER, THE REPORT MISTAKES THE NATURE OF MNC'S AND REGARDS THEM PRIMARILY AS ENGINES OF DEVELOPMENT. WHILE MNC'S DO CONTRIBUTE SIGNIFICANTLY TO THE DEVELOPMENT PROCESS, THEY ARE NOT ESTABLISHED PRIMARILY TO MEET THE DEVELOPMENT GOALS OF HOST NATIONS. FROM THE PRIVATE INVESTOR'S POINT OF VIEW, FOREIGN INVESTMENT MUST YIELD A REASONABLE RATE OF RETURN OVER TIME OR IT WILL BE PHASED OUT. WHILE EARNING A REASONABLE PROFIT AND CONTRIBUTING TO THE DEVELOPMENT GOALS OF NATIONS ARE NOT INCOMPATIBLE, WE FEAR THAT IMPLEMENTATION OF SOME OF THE RECOMMENDATIONS IN THE REPORT

WOULD SO RESTRICT THE OPERATIONS OF MNC'S OR CREATE SUCH UNCERTAINTIES THAT THE RESULT WOULD BE LESS NEW FOREIGN INVESTMENT. THIS WOULD LEAD TO A LOSS OF THE CONSIDERABLE BENEFITS MNC'S BRING TO THE DEVELOPMENT PROCESS.

6. THE REPORT EMPHASIZES THE OPERATIONS OF MNC'S IN DEVELOPING COUNTRIES. THIS LIMITED SCOPE IS REASONABLE, GIVEN THE EMPHASIS ON ECONOMIC DEVELOPMENT IN THE ECOSOC RESOLUTION CALLING FOR THE STUDY (1721 (LIII)) AND WE BELIEVE THAT FUTURE STUDY OF INTERNATIONAL INVESTMENT AND MNC ISSUES BY ECOSOC SHOULD CONTINUE TO CONCENTRATE ON

ISSUES RELATED TO THE DEVELOPING COUNTRIES. THIS WOULD AVOID UNDESIRABLE DUPLICATION OF EFFORT AND OVERLAP WITH THE WORK WELL UNDERWAY IN THE OECD ON MNC ISSUES WITH RESPECT TO DEVELOPED COUNTRIES. THERE OF COURSE SHOULD BE COORDINATION BETWEEN THE WORK IN THESE TWO AND OTHER FORA AND ECOSOC WORK ON DEVELOPING COUNTRY RELATIONS WITH MNC'S SHOULD DRAW ON THE EXPERIENCE AND PRACTICE OF DEVELOPED COUNTRIES IN DEALING WITH FOREIGN INVESTMENT ISSUES WHERE RELEVANT.

7. THE UNITED STATES CONTINUES TO BELIEVE IT IS WRONG TO CONCEPTUALIZE THE ISSUES IN THIS REPORT AS "MNC" ISSUES AS THEY ARE, IN REALITY A SERIES OF RELATED FOREIGN INVESTMENT ISSUES. IN FACT, MANY OF THE RECOMMENDATIONS ARE AS APPLICABLE TO ACTIVITIES OF STATE-OWNED ENTERPRISES AS TO THE PRIVATE MULTINATIONAL ENTERPRISES.

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PAGE 04 STATE 137390

8. U.S. POSITIONS ON RECOMMENDATIONS OF REPORT.

A. ON THE RECOMMENDATION THAT MNC ISSUES BE INCLUDED AS AN ANNUAL ITEM FOR DISCUSSION BY ECOSOC, THE U.S. DOES NOT BELIEVE ECOSOC SHOULD BE LOCKED INTO DISCUSSING MNC'S AS A PERMANENT ANNUAL AGENDA ITEM. RATHER, THE U.S. SUPPORTS DISCUSSION OF MNC'S IN ECOSOC WHEN THERE ARE SIGNIFICANT MNC ISSUES TO DISCUSS. AUTOMATIC INCLUSION ON THE AGENDA WITHOUT MATTERS OF SUBSTANCE TO DISCUSS OPENS THE DOOR TO IRRESPONSIBLE CRITICISM.

B. ON THE RECOMMENDATION THAT A UN COMMISSION ON MNC'S, COMPOSED OF 25 PERSONS SERVING AS INDIVIDUALS, BE ESTABLISHED UNDER ECOSOC, THE UNITED STATES BELIEVES THAT AT THE UPCOMING ECOSOC MEETING, A COMMITTEE OF GOVERNMENT REPRESENTATIVES SHOULD BE ESTABLISHED TO CONSIDER TO REPORT BACK TO ECOSOC NEXT YEAR WHETHER THERE IS A NEED TO SET UP SUCH A PERMANENT COMMISSION AND IF SO, WHAT ITS TERMS OF REFERENCE SHOULD BE. THIS COMMITTEE ITSELF MIGHT EVOLVE INTO THE COMMISSION BUT WE BELIEVE IT WOULD

BE INAPPROPRIATE TO MOVE DIRECTLY TO A PERMANENT COMMISSION BEFORE ITS NEED IS MORE FIRMLY ESTABLISHED AND ITS TERMS OF REFERENCE DISCUSSED AND REFINED. THE US QUESTIONS WHETHER THE MEMBERS OF AN EVENTUAL COMMISSION SHOULD SERVE IN THEIR INDIVIDUAL CAPACITIES RATHER THAN REPRESENT GOVERNMENTS. THIS IS ONE OF THE QUESTIONS THE COMMITTEE SHOULD CONSIDER. THE US HAS NOT YET FORMED A FIRM POSITION BUT WE NOW ARE TENDING TO FAVOR HAVING THE MEMBERS REPRESENT GOVERNMENTS. GOVERNMENT AGREEMENT IS NECESSARY TO IMPLEMENT RECOMMENDATIONS ON MULTINATIONAL CORPORATIONS,

AND AS INDICATED BY THE ABOVE COMMENTS ON THE REPORT, THE UNITED STATES GOVERNMENT AND PROBABLY OTHER GOVERNMENTS DISAGREE WITH THE VIEWS OF THE GROUP OF EXPERTS, AND IN FACT TAKES BASIC EXCEPTION TO SOME OF THEIR RECOMMENDATIONS. MOREOVER, AS INDICATED IN THE PREFACE OF THE REPORT MOST OF THE ACTUAL DRAFTING OF THE REPORT WAS NOT DONE BY A REPRESENTATIVE GROUP. THIS IS NOT TO IMPLY CRITICISM OF THE PROCESS, BUT THIS REFLECTS THE FACTS OF LIFE THAT "EMINENT PERSONS" AND "EXPERTS" USUALLY HAVE OTHER JOBS THAT MAKE IT IMPRACTICABLE TO SPEND THE TIME LIMITED OFFICIAL USE
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PAGE 05 STATE 137390

REQUIRED IN DRAFTING REPORTS. FINALLY, HAVING THE COMMISSION CONSIST OF GOVERNMENTAL REPRESENTATIVES WOULD PERMIT BETTER COORDINATION WITH SIMILAR ACTIVITIES TAKING PLACE IN OTHER ORGANIZATIONS SUCH AS THE WORKING GROUP ON THE CHARTER OF ECONOMIC RIGHTS AND DUTIES AND THE CONSIDERATION OF MNC ISSUES IN THE OECD AND THE OAS.

C. THE US SUPPORTS THE PROPOSAL FOR ESTABLISHING AN INFORMATION AND RESEARCH CENTER ON MNC'S IN THE UN SECRETARIAT. HOWEVER, WE WOULD NOT WANT IT TO HAVE AN AUTONOMOUS STATUS AS PROPOSED IN SYG REPORT (E 15500 PARA. 39). THE SECRETARIAT HAS PREPARED A SOUND BASIC STUDY ON MNC'S AND OBVIOUSLY ALREADY HAS IMPRESSIVE RESOURCES IN THIS AREA. MOREOVER, WE DO NOT AGREE THAT THE CENTER SHOULD INCLUDE A STAFF OF EXPERTS TO HELP GOVERNMENT EVALUATE INVESTMENT PROPOSALS IN CONNECTION WITH NEGOTIATIONS WITH MNC'S. THIS WOULD SEEM TO IMPLY A NEW ORGANIZATION WITH A MANDATE CLOSE TO THAT OF UNIDO'S, ALTHOUGH UNIDO HAS NOT DEEMED IT PRACTICABLE TO GIVE THIS SORT OF SPECIFIC INVESTMENT ADVICE. FINALLY THE WORK OF SUCH A CENTER SHOULD BE COORDINATED WITH THAT OF OTHER ORGANIZATIONS SUCH AS THE OECD TO AVOID UNNECESSARY DUPLICATION.

D. ON THE RECOMMENDATION THAT ECOSOC CONSIDER ADOPTING A RESOLUTION EMBODYING THE REPORT'S RECOMMENDATIONS TO GOVERNMENTS IN THE CHAPTER ON THE IMPACT OF MNC'S ON INTERNATIONAL RELATIONS, THE U.S. QUESTIONS STRONGLY THE

DESIRABILITY OF SUCH A RESOLUTION EMBODYING THE RECOMMENDATIONS AS PRESENTLY FORMULATED IN THE REPORT. MANY OF THE RECOMMENDATIONS ARE PHRASED IN A MANNER UNACCEPTABLE TO THE USG AND COVER MATTERS ALREADY INCLUDED WITHIN THE UNCTAD CHARTER OF ECONOMIC RIGHTS AND DUTIES. MANY ARE BASED ON INADEQUATE INFORMATION AND ANALYSIS.

9. DISCUSSION OF REPORT IN OECD INVESTMENT EXPERTS MEETING ON JULY 8 AND 9. THE U.S. REGARDS THIS MEETING AS A VALUABLE OPPORTUNITY FOR OECD MEMBERS TO EXCHANGE PRELIMINARY REACTIONS TO THE REPORT BOTH IN GENERAL AND WITH RESPECT TO THE SPECIFICS. WHILE THIS DISCUSSION NECESSARILY WILL CONCENTRATE ON THE IMPLICATIONS OF THE LIMITED OFFICIAL USE
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PAGE 06 STATE 137390

REPORT FOR THE OECD WORK ON MNC'S AND IS LIKELY TO AVOID INSTITUTIONAL UN QUESTIONS, IT SHOULD ASSIST THE MEMBER GOVERNMENTS IN PREPARING FOR THE ECOSOC DISCUSSIONS.

10. ACTION REQUESTED. A. ACTION POSTS ARE REQUESTED TO OBTAIN THE VIEWS OF HOST GOVERNMENTS ON THE EMINENT PERSONS REPORT AND THEIR OBJECTIVES FOR THE ECOSOC AND OECD INVESTMENT EXPERTS DISCUSSIONS OF THE REPORT. WE UNDERSTAND THAT SOME MEMBER COUNTRIES MAY WISH TO AVOID APPEARING TO USE THE OECD AS A FORUM FOR DEVELOPING A UNITED FRONT OF DEVELOPED CAPITAL EXPORTING COUNTRIES ON MNC ISSUES. INQUIRIES THUS SHOULD EMPHASIZE THAT WHAT WE DESIRE AT THE EXPERTS MEETING IS A FREE EXCHANGE OF IDEAS ON THE SUBSTANCE OF THE REPORT. POSTS MAY USE INFORMATION IN 2 THROUGH 8. ABOVE TO INFORM GOVERNMENTS OF PRELIMINARY VIEWS OF USG.

B. POSTS ARE REQUESTED TO ASK SUPPORT OF HOST GOVERNMENTS IN DEFERRING ECOSOC DISCUSSION OF REPORT UNTIL LATTER PART OF JULY SO THAT THERE WILL BE TIME TO ASSESS THE RESULTS OF THE OECD EXPERTS DISCUSSION.

C. OECD MISSION PARIS IS REQUESTED TO OBTAIN FROM ABRAMOWSKI HIS VIEWS AS TO HOW HE PLANS TO STRUCTURE EXPERTS DISCUSSION ON THE REPORT.

D. ACTION POSTS ARE REQUESTED TO REPORT ON THEIR DISCUSSIONS BY COB MONDAY JULY 1, IF POSSIBLE.

PLEASE REPEAT ALL REPLIES TO OECD PARIS, USUN NEW YORK AND US MISSION GENEVA. SISCO

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